

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

CHARLES JARVIS and KARON JARVIS,

Index No. 8580/07

Plaintiffs,

- against -

VERIFIED ANSWER

JAMES BUTLER, M.D., MONTEFIORE RADIATION
ONCOLOGY, P.C., CENTER FOR RADIATION
THERAPY, MONTEFIORE MEDICAL MEDICAL CENTER,
JACK D. WEILER HOSPITAL DIVISION and THE
UNIVERSITY FOR THE ALBERT EINSTEIN COLLEGE
OF MEDICINE MONTEFIORE MEDICAL CENTER,

Defendants.

The defendant, **JAMES BUTLER, M.D.** by his attorneys, WILSON, ELSER,
MOSKOWITZ, EDELMAN & DICKER LLP. answer the plaintiff's Complaint as follows upon
information and belief:

1. Denies knowledge or information sufficient to form a belief as to the truth of the
allegations contained in paragraph(s) " 1 . "

FIRST CAUSE OF ACTION

2. Denies knowledge or information sufficient to form a belief as to the truth of the
allegations contained in paragraph(s) "4."
3. Denies knowledge or information sufficient to form a belief as to the truth of the
allegations contained in paragraph(s) "5", "10", "11", "12", "13", "14", "15", "16", "19", "22"
and "25" and refers questions of Law to the Court.
4. Denies the allegations contained in paragraphs(s) "6", "7", "8" and "9" in the form alleged
and refers questions of Law to the Court.

5. Denies the allegations contained in paragraph(s) "18" in the form alleged except admits that MONTEFIORE MEDICAL CENTER has a division located at 1825 Eastchester Road, Bronx, New York and refers questions of Law to the Court.
6. Denies the allegations contained in paragraph(s) "20", "21", "23", "26" and "27."
7. Denies the allegations contained in paragraph(s) "24" in the form alleged.
8. Denies the allegations contained in paragraph(s) "28" and "29" and refers questions of Law to the Court.

SECOND CAUSE OF ACTION

9. In response to paragraph "30" defendant repeats and reiterates each admission or denial heretofore made.
10. Denies the allegations contained in paragraph(s) "31" and "32."
11. Denies the allegations contained in paragraph(s) "33" and refers questions of Law to the Court.

THIRD CAUSE OF ACTION

12. In response to paragraph "34" defendant repeats and reiterates each admission or denial heretofore made.
13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph(s) "35."
14. Denies the allegations contained in paragraph "36."
15. Denies the allegations contained in paragraph(s) "37" and refers questions of Law to the Court.

FIRST AFFIRMATIVE DEFENSE

16. The answering defendant asserts those applicable affirmative defenses for which provision is made at Public Health Law § 2805-d.

SECOND AFFIRMATIVE DEFENSE

17. The answering defendant reserves the right to claim the limitation of liability for non-economic loss pursuant to article 16 of the CPLR.

THIRD AFFIRMATIVE DEFENSE

18. In the event plaintiffs recover a verdict or judgement against defendants, such verdict or judgement must be reduced pursuant to Section 4545(c) of the Civil Practice Laws and Rules by those amounts which have been, or will, with reasonable certainty, replace or indemnify plaintiffs in whole or in part, for any past or future claimed economic loss, from any collateral source.

FOURTH AFFIRMATIVE DEFENSE

19. That the Statute of Limitations set forth in CPLR §214-a bars any claim with regard to the professional services rendered more than two and a half (2-1/2) years prior to the commencement of the within action.

FIFTH AFFIRMATIVE DEFENSE

20. This Court lacks jurisdiction over the person of the answering defendant based on the failure to comply with CPLR §306-b and §308.

WHEREFORE, defendant, **JAMES BUTLER, M.D.** demands judgment dismissing the Verified Complaint, together with the costs and disbursements of the within action.

Dated:, White Plains, New York
April 2, 2007

Yours, etc.

WILSON, ELSER, MOSKOWITZ,
EDETMAN & DICKER LLP

By: fYhj^i^- QgrgjX^
Laura B. Jordan Esq.
Attorneys for Defendant,

JAMES BUTLER, M.D.
3 Gannett Drive
White Plains, New York 10604
(914)323-7000

TO: Silberstein, Awad & Miklos, P.C.
Attorneys for Plaintiffs
600 Old Country Road
Garden City, New York 11530
(516)832-7777

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Laura B. Jordan, Esq.
22920-00596

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COUNTY OF BRONX

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- against -

JAMES BUTLER, M.D., MONTEFIORE RADIATION ONCOLOGY, P.C., CENTER FOR RADIATION
THERAPY, MONTEFIORE MEDICAL MEDICAL CENTER, JACK D. WEILER HOSPITAL FOR THE
ALBERT EINSTEIN COLLEGE OF MEDICINE, MONTEFIORE MEDICAL CENTER,

Defendants.

VERIFIED ANSWER & COMBINED DISCOVERY DEMANDS

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

Attorneys For **JAMES BUTLER, M.D.**

Office & Post Office Address, Telephone
3 Gannett Drive
WHITE PLAINS, NEW YORK 10604-3527
(914) 323-7000

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THERAPY, MONTEFIORE MEDICAL MEDICAL CENTER,
JACK O. WEILER HOSPITAL DIVISION and THE
UNIVERSITY FOR THE ALBERT EINSTEIN COLLEGE
OF MEDICINE MONTEFIORE MEDICAL CENTER,

Defendants.

X
The defendant, **MONTEFIORE MEDICAL CENTER, Individually and MONTEFIORE
MEDICAL CENTER** sued herein as **MONTEFIORE MEDICAL MEDICAL CENTER, JACK D.
WEILER HOSPITAL DIVISION and THE UNIVERSITY FOR THE ALBERT EINSTEIN
COLLEGE OF MEDICINE MONTEFIORE MEDICAL CENTER** by its attorneys, WILSON,
ELSER, MOSKOWITZ, EDELMAN & DICKER LLP. answer the plaintiffs Complaint as follows
upon information and belief:

1. Denies knowledge or information sufficient to form a belief as to the truth of the
allegations contained in paragraph(s) "1."

FIRST CAUSE OF ACTION

2. Denies knowledge or information sufficient to form a belief as to the truth of the
allegations contained in paragraph(s) "2", "3" and "4."
3. Denies knowledge or information sufficient to form a belief as to the truth of the
allegations contained in paragraph(s) "5", "6", "7", "8", "9", "10", "11", "12", "13", "14", "15",
"16", "19", "22" and "25" and refers questions of Law to the Court.

4. Denies the allegations contained in paragraph(s) "18" in the form alleged except admits that MONTEFIORE MEDICAL CENTER has a division located at 1825 Eastchester Road, Bronx, New York and refers questions of Law to the Court.
5. Denies the allegations contained in paragraph(s) "20", "21", "23", "26" and "27."
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8. In response to paragraph "30" defendant repeats and reiterates each admission or denial heretofore made.
9. Denies the allegations contained in paragraph(s) "31" and "32."
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THIRD CAUSE OF ACTION

11. In response to paragraph "34" defendant repeats and reiterates each admission or denial heretofore made.
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FOURTH AFFIRMATIVE DEFENSE


18. That the Statute of Limitations set forth in CPLR §214-a bars any claim with regard to the professional services rendered more than two and a half (2-1/2) years prior to the commencement of the within action.

WHEREFORE, defendant, **MONTEFIORE MEDICAL CENTER, Individually and MONTEFIORE MEDICAL CENTER sued herein as MONTEFIORE MEDICAL MEDICAL CENTER, JACK D. WEILER HOSPITAL DIVISION and THE UNIVERSITY FOR THE ALBERT EINSTEIN COLLEGE OF MEDICINE MONTEFIORE MEDICAL CENTER** demands judgment dismissing the Verified Complaint, together with the costs and disbursements of the within action.

Dated:, White Plains, New York
March 26, 2007

Yours, etc.

WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP

By: 
Laura B. Jordan, Esq.

Attorneys for Defendant,

**MONTEFIORE MEDICAL CENTER, Individually and
MONTEFIORE MEDICAL CENTER sued herein as
MONTEFIORE MEDICAL MEDICAL CENTER, JACK D.
WEILER HOSPITAL DIVISION and THE UNIVERSITY
FOR THE ALBERT EINSTEIN COLLEGE OF MEDICINE
MONTEFIORE MEDICAL CENTER**

3 Gannett Drive

White Plains, New York 10604

(914)323-7000

TO: Silberstein, Awad & Miklos, P.C.

Attorneys for Plaintiffs

600 Old Country Road

Garden City, New York 11530

(516)832-7777

ATTORNEY'S VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

LAURA B. JORDAN, being duly sworn deposes and says: That she is a member of the firm of WILSON, ELSEER, MOSKOWITZ, EDELMAN & DICKER LLP, representing the defendant, **MONTEFIORE MEDICAL CENTER, Individually and MONTEFIORE MEDICAL CENTER** sued herein as **MONTEFIORE MEDICAL MEDICAL CENTER, JACK D. WEILER HOSPITAL DIVISION and THE UNIVERSITY FOR THE ALBERT EINSTEIN COLLEGE OF MEDICINE MONTEFIORE MEDICAL CENTER.**

That pursuant to the CPLR she has read the attached Verified Answer and the same is true to her own belief, and as to those matters, she believes them to be true to the best of her knowledge.

That deponent's sources of information are a claims file containing statements, reports and records of investigation, investigators, parties and witnesses, with which deponent is fully familiar.

That this verification is made by deponent because the answering defendants are not in the county where deponent's firm maintains its office.

LAURA B. JORDAN, Esq.

Sworn to before me this
^/ day of March 2007.

Dennie M. Han
NOTARY PUBLIC

DEMISE to. HuhN
Notary Public. State of New York
No. 01HO5027377
- Qualified in Rockland County
Commission Expires May 9, 1998

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Laura B. Jordan, Esq.
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WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER LLP

Attorneys For MONTEFIORE MEDICAL CENTER, Individually and MONTEFIORE MEDICAL
CENTER s/ha/ JACK D. WEILER HOSPITAL OF THE ALBERT EINSTEIN
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